

REMARKS

Claims 23 – 26 were presented for consideration in the present application. This Amendment adds new claims 27 – 41. Thus, claims 23 – 41 are presented for consideration upon entry of this Amendment. Applicant respectfully submits that no new subject matter is introduced by claims 27 – 41. For at least the reasons set forth below, Applicant respectfully submits that claims 23 – 41 are patentable over the cited art.

Claim 23 stands rejected under 35 U.S.C. §102(e) as being anticipated U.S. Patent No. 6,175,055 to Schone et al. (hereinafter “Schone”).

Claim 23 provides a method of incorporating zeolite in a tampon that includes distributing zeolite granules on a first non-woven web and bonding a second non-woven web to the first non-woven web so that the zeolite granules are sandwiched therebetween.

In order to be anticipating a prior art reference must be enabling so that the claimed subject matter may be made or used by one skilled in the art. *Amgen Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1354 (Fed. Cir. 2003); *Helifix, Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 1346 (Fed. Cir. 2000); *Akzo N.V. v. U.S. Int’l Trade Comm’n*, 808 F.2d 1471, 1479 (Fed. Cir. 1986). Prior art is not enabling so as to be anticipating if it does not enable a person of ordinary skill in the art to carry out the invention. *Elan Pharms., Inc. v. Mayo Found.*, 346 F.3d 1051, 1057 (Fed. Cir. 2003); *In re Donohue*, 766 F.2d 531, 533 (Fed. Cir. 1985) (“[P]rior art . . . must sufficiently describe the claimed invention to have placed the public in possession of it. Such possession is effected if one of ordinary skill in the art could have combined the publication’s description of the invention with his own knowledge to make the claimed invention.”).

The Office Action contends that Schone discloses a method of incorporating zeolite into a tampon, as described in column 1, lines 39 – 42, and column 2, lines 27 – 29. The Office Action further contends that the method disclosed in Schone comprises distributing the zeolite granules on a first nonwoven web and bonding a second web to the first web, as disclosed in column 2, lines 52 – 56. This contention is respectfully traversed.

Applicant submits that Schone clearly fails to disclose or suggest a method of incorporating zeolite in a tampon. In contrast, Schone provides a method of incorporating bentonite clay in a tampon. While Schone does discuss that zeolite has been previously suggested as an odor control material in absorbent articles, Schone explicitly provides that zeolite is very expensive and difficult to process. Furthermore, Schone fails to provide any specific teaching that would have led one to attempt to incorporate zeolite in a tampon. In fact, Schone explicitly provides that, “the requirements for production equipment and process control are less stringent, for bentonite than is the case for carbon black or zeolite.” See col. 1, lines 54 – 56. Moreover, the disclosure of Schone does not provide a reasonable expectation of success in incorporating zeolite in a tampon because Schone specifically states that when zeolite is used as an odor control material, “small amounts of materials have to be metered accurately into each product.” See col. 1, lines 56 – 58.

In view of the above, Applicant respectfully submits that Schone is not an enabling reference for the purposes of anticipating the claimed invention. Thus, it is improper to rely upon Schone as a basis for rejection of the present application.

A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Applicant respectfully submits that Schone clearly fails to teach the steps of distributing zeolite granules on a first non-woven web and bonding a second non-woven

web to the first non-woven web so that the zeolite granules are sandwiched therebetween. As discussed above, Schone teaches a method of incorporating bentonite clay between two layers of cellulose tissue. Furthermore, Schone emphasizes that bentonite clay has very distinguishable properties compared to zeolite. See col. 1, lines 39 – 65.

Even if Schone did teach a method of incorporating zeolite in a tampon, the method taught in Schone and the method recited in claim 23 of the present application are clearly distinguishable. The method of incorporating bentonite clay in a tampon that is taught in Schone provides that the odor control material is layered between two layers of air laid cellulose tissue and a laminate. Then, the odor control material is heated such that the edges of the laminate layer are glued together and the odor control material, namely bentonite clay, is encapsulated between the layers. See col. 4, lines 20 – 32. In contrast, the method recited in claim 23 of the present application provides that the odor control material, namely zeolite granules, is sandwiched between a first non-woven web and a second non-woven web. Thus, Schone clearly fails to anticipate claim 23.

Accordingly, for at least the aforementioned reasons, independent claim 23 is in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 23.

Claim 26 stands rejected under 35 U.S.C. §102(e) as being anticipated U.S. Patent No. 6,083,347 to Thebrin et al. (hereinafter "Thebrin").

Claim 26 provides a method of incorporating zeolite in a tampon that includes suspending zeolite powder and a suspension aid in a liquid to form a liquid suspension, dispensing the liquid suspension on an absorbent pad, and forming the absorbent pad into a tampon. The method further provides that the zeolite powder is maintained in the liquid suspension when the tampon is formed. In addition, the zeolite powder is immobilized so that it adheres to the absorbent pad after the liquid suspension dries.

Thebrin provides a method of producing an absorbent material having cellulosic fibers that are treated with a hydrophobic substance, such as zeolite. The hydrophobic substance may be brought to the fibers in a dry or wet state however, it is preferred that the hydrophobic substance is part of an aqueous mixture. Thebrin further provides that the mixture is applied on an absorbent web by spraying or showering. The treatment may be carried out in the presence of a retention agent to ensure that a sufficient amount of the substance particles are kept in contact with, or in the proximity of the fibers long enough to give the desired effect.

Applicant respectfully submits that Thebrin clearly fails to teach that the zeolite is maintained in the liquid suspension when the tampon is formed. Moreover, Thebrin also fails to teach that the zeolite is immobilized so that it adheres to the absorbent pad after the liquid suspension dries. In contrast, Thebrin provides that a retention agent is used during the treatment of the web to keep the hydrophobic substance in contact with, or in the proximity of the fibers long enough to give the desired effect. The retention agent functions to increase the adhesion of the hydrophobic substance to the web. Thus, Thebrin clearly fails to anticipate claim 26.

Accordingly, for at least the aforementioned reasons, independent claim 26 is in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 26.

Claims 24 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schone in view of U.S. Patent No. 5,165,152 to Kramer et al. (hereinafter "Kramer").

Since independent claim 23 is believed to be in condition for allowance and claims 24 and 25 depend therefrom, Applicant respectfully submits that claims 24 and 25 are also believed to be in condition for allowance.

Applicant respectfully submits that dependent claims 24 and 25 are also believed to be in condition for allowance for at least the following additional reason.

Claim 24 recites the step of cutting the bonded first and second non-woven webs into one or more strips. Claim 25 recites the step of inserting the one or more strips between at least two absorbent pads prior to forming the tampon.

Kramer provides a process and an apparatus for the continuous production of absorbent bodies from a web of fiber material. The web of fiber material is folded numerous times and subsequently rolled to give the layered web a round cross-section. See col. 3, line 10 through col. 4, line 11. The rolled web having a round cross-section is subsequently cut along a perpendicular plane to form a tampon pledget.

Applicant respectfully submits that Kramer clearly fails to disclose or suggest a method of incorporating zeolite in a tampon that includes cutting the web into one or more strips for insertion between at least two absorbent pads prior to forming a tampon, as recited in claims 24 and 25. In contrast, while Kramer does disclose cutting a web having a round cross-section, the cut web having the round cross-section forms a cylindrical tampon pledget and not strips of web that are subsequently inserted between absorbent pads prior to forming a tampon, as recited in claim 1. Kramer, like Schone, lacks any disclosure or suggestion of cutting a web into one or more strips and inserting the one or more strips between two or more absorbent pads prior to forming a tampon.

Accordingly, for at least the aforementioned reasons, claims 24 and 25 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 24 and 25.

Claim 26 stands rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2, 7 and 11 of U.S. Patent No. 6,635,205 to Williams et al. (hereinafter "Williams").

Applicant respectfully submits that Williams was filed on June 11, 2001 as a continuation-in-part application of U.S. Patent Application No. 09/399,654 (filed on September 21, 1999 and issued as U.S. Patent No. 6,248,274). Thus, the earliest possible priority date of Williams is September 21, 1999.

The present application was filed on January 27, 2004 as a divisional application of U.S. Patent Application No. 09/977,752 (filed on October 15, 2001 and issued as U.S. Patent No. 6,702,797). U.S. Patent Application No. 09/977,752 was also a divisional application of U.S. Patent Application No. 09/062,993 (filed on April 20, 1998 and issued as U.S. Patent No. 6,353,146). Accordingly, the priority date of the present application is April 20, 1998. Thus, the priority date of the present application is clearly earlier than the priority date of Williams. In view of the above, Applicant respectfully submits that Williams is an improper reference for the purposes of nonstatutory obviousness-type double patenting.

Accordingly, for at least the aforementioned reasons, claim 26 is in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 26.

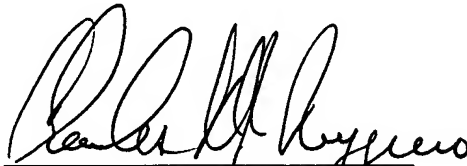
Claims 27 – 41 have been added to point out various aspects of the present application. It is submitted that new claims 27 – 41 are directed to the elected embodiment. It is believed that new claims 27 – 41 are in condition for allowance. Applicants respectfully submit that the cited art, alone or in combination fail to recite the combination now claimed. Accordingly, claims 27 – 41 are in condition for allowance.

In view of the foregoing, Applicant respectfully submits that all claims present in this application patentably distinguish over the cited prior art references. Accordingly, Applicants respectfully request favorable reconsideration and withdrawal of the rejections of the claims. Also, Applicant respectfully requests that this application be passed to allowance.

If for any reason the Examiner feels that consultation with Applicant's attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

Respectfully submitted,

December 13, 2007



Charles N.J. Ruggiero, Esq.
Registration No. 28,468
Attorney for Applicants
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th floor
Stamford, CT 06901-2682
Tel: (203) 327-4500
Fax: (203) 327-6401

RECEIVED
SEP 24 2007
Intellectual Ventures

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

IV - ISF Docketing	
Entered in Docket	
<input checked="" type="checkbox"/> by	9/25/07
On 9/25/07	
Double Docketed	
<input type="checkbox"/> by	
On	

Applicant's or agent's file reference 10030202AWO1	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/US05/29690	International filing date (day/month/year) 23 August 2005 (23.08.2005)	(Earliest) Priority Date (day/month/year) 24 August 2004 (24.08.2004)
Applicant ISHIKAWA, MURIEL Y		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 4 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the Report

a. With regard to the language, the international search was carried out on the basis of:



the international application in the language in which it was filed.



a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

b. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. ☐ Certain claims were found unsearchable (See Box No. II)

3. ☒ Unity of invention is lacking (See Box No. III)

4. With regard to the title,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the abstract,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

a. the figure of the drawings to be published with the abstract is Figure No. _____



as suggested by the applicant.



as selected by this Authority, because the applicant failed to suggest a figure.



as selected by this Authority, because this figure better characterizes the invention.



none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US05/29690

Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:
2. ☐ Claims Nos.:
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box No. III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying additional fees, this Authority did not invite payment of any additional fees.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.: Please See Continuation Sheet

- Remark on Protest**
- ☐ The additional search fees were accompanied by the applicant's protest and, where applicable, the payment of a protest fee.
 - ☐ The additional search fees were accompanied by the applicant's protest but the applicable protest fee was not paid within the time limit specified in the invitation.
 - ☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US05/29690

A. CLASSIFICATION OF SUBJECT MATTER

IPC: G06F 17/50(2006.01);G01N 33/48,33/150,C12Q 3/00;C12M 3/00(2006.01)

USPC: 703/1,702/19,435/3

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 703/1, 702/19, 435/3

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 5,866,432 (Sorsa et al.) 2 Feb. 1999, abstract and col. 1-5	1-3, 6, 9, 12, 21, 23, 27-28, 31, 32, 35, 40, 57, 58, 60, 62, 63, 67, 70, 73, 82, 83, 88, 89, 91, 93, 96, 101, 118, 121, 123
O	US 2002/0182222 (Groot) 5 Dec. 2002, abstract and col. 1-11	1-3, 6, 9, 12, 21, 23, 27-28, 31, 32, 35, 40, 57, 58, 60, 62, 63, 67, 70, 73, 82, 83, 88, 89, 91, 93, 96, 101, 118, 121, 123

☐ Further documents are listed in the continuation of Box C.

☐ See patent family annex.

* Special categories of cited documents:

"A"	document defining the general state of the art which is not considered to be of particular relevance	"T"	later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"E"	earlier application or patent published on or after the international filing date	"X"	document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"L"	document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	"Y"	document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"O"	document referring to an oral disclosure, use, exhibition or other means	"&"	document member of the same patent family
"P"	document published prior to the international filing date but later than the priority date claimed		

Date of the actual completion of the international search

16 August 2007 (16.08.2007)

Date of mailing of the international search report

16 SEP 2007

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Authorized officer

Marjorie Moran

Telephone No. NA

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US05/29690

Continuation of Box III Item 4:

1-3,6,9,12,21,23,27,28,31,32,35,40,57,58,60,62,63,67,70,73,82,83,88,89,91,93,96,101,118,121 and 123